

RESOLUTION NO. 2018-36

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE
VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING
AN AMENDMENT TO JOHN C. GILBERT'S
EMPLOYMENT AGREEMENT; PROVIDING FOR
AUTHORIZATION; AND PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, John C. Gilbert currently serves as Village Manager pursuant to the Second Amendment to Employment Agreement between the Village and Mr. Gilbert, dated September 9, 2014, the term of which was extended until September 30, 2018; and

WHEREAS, Mr. Gilbert wishes to retire from his employment as Village Manager, effective September 30, 2018; and

WHEREAS, after completing a comprehensive search for Mr. Gilbert's successor as Village Manager, the Village Council selected Andrea Agha as its next Village Manager; and

WHEREAS, after selecting Ms. Agha to serve as Mr. Gilbert's successor as Village Manager, the Village Council expressed a desire to have a period of overlap between the employment of Mr. Gilbert and Ms. Agha so that Ms. Agha could consult with Mr. Gilbert as she assumed responsibility as Village Manager; and

WHEREAS, on June 25, 2018, the Village Council approved an employment agreement with Andrea Agha, which provided that Andrea Agha would commence her duties as Village Manager on August 13, 2018; and

WHEREAS, the Village Council and Mr. Gilbert desire to enter into a Third Amendment to Village Manager Employment Agreement Between the Village and Mr. Gilbert to modify Mr. Gilbert's duties and responsibilities to the Village during the period August 13, 2018 to September 30, 2018 during which Ms. Agha and Mr. Gilbert are both employed by the Village (the "Transition Period"); and

WHEREAS, the Village Council finds that this Resolution is in the best interest and welfare of the residents of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Approval.** The Village Council hereby approves a Third Amendment to the Village Manager Employment Agreement between the Village and Mr. Gilbert, which provides that during the Transition Period or until such time as Mr. Gilbert ceases employment with the Village (whichever comes first): (1) Mr. Gilbert shall be appointed to the position of “Senior Advisor to the Village Manager” and will no longer have the authority, power, and duties as Village Manager set forth under his Employment Agreement, as amended, the Village Charter and Village Code of Ordinances; (2) Mr. Gilbert will be available to Ms. Agha on an as needed basis to assist her in the transition to becoming Village Manager; and (3) all other terms and conditions of his Employment Agreement, as amended, remain the same.

Section 3. **Authorization.** The Village Council hereby authorizes the Village Attorney to prepare a Third Amendment to the Village Manager Employment Agreement between the Village and Mr. Gilbert consistent with the intent and purpose of this Resolution, and authorizes the Mayor to execute such an agreement on the behalf of the Village.

Section 4. **Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this 6th day of July, 2018.


MAYOR MAYRA PEÑA LINDSAY

ATTEST:


JENNIFER MEDINA, CMC
VILLAGE CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY


VILLAGE ATTORNEY

**THIRD AMENDMENT TO
EMPLOYMENT AGREEMENT BETWEEN
THE VILLAGE OF KEY BISCAYNE
AND
JOHN C. GILBERT**

This Third Amendment to the Employment Agreement (the "Third Amendment") between the Village of Key Biscayne and John C. Gilbert is made and entered into this 6th day of July 2018, by and between the Village of Key Biscayne, Florida, a municipal corporation of the State of Florida (the "Village") and John C. Gilbert ("Employee"). Collectively, the Village and Employee shall be referred to as the Parties.

WITNESSETH

WHEREAS, on February 12, 2012, the Parties entered into an Employment Agreement whereby the Employee agreed to serve as Village Manager (the "Agreement"); and

WHEREAS, on December 3, 2013, the Parties entered into a First Amendment to Employment Agreement (the "First Amendment") modifying various terms and conditions of Employee's employment; and

WHEREAS, on September 9, 2014, the Parties entered into a Second Amendment to Employment Agreement (the "Second Amendment") modifying various terms and conditions of Employee's employment, the term of which was extended and expires on September 30, 2018; and

WHEREAS, Employee wishes to retire from his employment as Village Manager, at the expiration of the term of the Agreement, as amended, effective September 30, 2018; and

WHEREAS, on June 25, 2018, the Village Council approved an employment agreement with a new Village Manager, which provided that the new Village Manager would commence her duties as Village Manager on August 13, 2018; and

WHEREAS, the Parties desire to further amend the Agreement by entering into this Third Amendment to modify Employee's duties and responsibilities to the Village during the period August 13, 2018 to September 30, 2018 (the "Transition Period") during which time the new Village Manager and Employee are both employed.

NOW THEREFORE, in consideration of the mutual covenants set forth in this First Amendment the Parties agree as follows:¹

Section 1. Amendment to the Agreement. That Section 1 "Duties" of the Agreement is hereby amended as follows:

Section 1. Duties

The Village agrees to employ Employee as Village Manager, to perform the duties and exercise the powers as prescribed by state law, the Village Charter and the Village Code, and to perform such other legally permissible and proper duties and functions as assigned by the Village Council from time to time. Notwithstanding the foregoing, during the Transition Period or until such time as Employee ceases employment with the Village (whichever comes first) the Employee shall: (1) be appointed to the position of "Senior Advisor to the Village Manager" and will no longer have the authority, power, and duties as Village Manager as set forth under the Agreement, the First Amendment, the Second Amendment, the Village Charter and Village Code; and (2) will be available to the new Village Manager on an as needed basis to assist her in the transition to becoming Village Manager.

Section 2. No Further Modifications. All other terms and conditions of the Agreement not in conflict or superseded by the First Amendment, Second Amendment and Third Amendment shall remain in full force and effect as if set forth in full herein.

IN WITNESS WHEREOF, the Parties hereto have accepted, made and executed this Third Amendment upon the terms and conditions above stated on the day and year first above written.

¹ Additions to existing text are shown by underline; deletions are shown by ~~strikeout~~.

Employee

Village of Key Biscayne, Florida

By: _____

John C. Gilbert

By: _____

Mayra Peña Lindsay, Mayor

Attest: _____

Jennifer Medina, CMC
Village Clerk



Approved as to Form and Legal Sufficiency:

Weiss Serota Helfman Cole & Bierman, P.L.
Village Attorney